REMARKS

In the Office Action dated May 27, 2004, Examiner formally imposed a restriction requirement and requested that Applicant affirm his provisional election of independent claim 1 over independent claim 5 for further examination. In response, Applicant hereby affirms and ratifies his election of independent claim 1 over independent claim 5 and thereby withdraws claim 5 from further consideration by Examiner.

Also in the Office Action, Examiner noted that a proper brief description of Figure 2B is missing from the "Brief Description of the Drawings" in the specification. To remedy such, Applicant has amended page 5 of the specification as indicated hereinabove. In making such an amendment, Applicant respectfully maintains that no new matter has been added to the Application.

In addition to amending the specification, Applicant has also amended original Figure 1A of the Application. (See Replacement Sheet for Figure 1A included herewith.) In Figure 1A as amended, numerical designation "14" has been added to particularly point out a "twisted pair transmission line 14" which is specifically mentioned on pages 2 and 3 of the specification. In making such an amendment, Applicant again respectfully maintains that no new matter has been added to the Application.

Further in the Office Action, Examiner rejected independent claim 1 as being unpatentable over claim 1 in United States Patent Number 6,324,167 (issued to Thomas J.J. Starr on November 27, 2001) under the judicially created doctrine of impermissible obviousness-type double patenting. In response, Applicant is herewith filing an executed Terminal Disclaimer form in compliance with 37 C.F.R. § 1.321(c) to overcome Examiner's objection. (See executed form entitled "Terminal Disclaimer to Obviate a Double Patenting Rejection over a Prior Patent" included herewith.) Receipt and entry thereof is respectfully requested by Applicant.

In view of Examiner's comments in the Office Action, Applicant has also amended independent claim 1 as set forth hereinabove. In doing so, Applicant hereby seeks to better highlight the patentable differences of Applicant's proposed invention as compared to the prior art cited and interpreted by Examiner in the Office Action. In making such an amendment, Applicant maintains that no new matter has been introduced into the present Application. Furthermore, except for independent claim 5 being withdrawn as mentioned hereinabove, no claims have been altogether cancelled, and no new claims have been added. Thus, only independent claim 1 remains pending for Examiner's consideration in the present Application. It is Applicant's good faith belief that claim 1, as amended, is both novel and non-obvious. Therefore, Applicant respectfully maintains that the pending claim now places the present Application in condition for allowance and notice thereof is respectfully requested.

35 U.S.C. § 102(e)

In the Office Action, independent claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated and therefore unpatentable over United States Patent Number 6,345,071, issued to Hamdi on February 5, 2002 (hereinafter "Hamdi"). Applicant respectfully traverses the 35 U.S.C. § 102 rejection set forth in the Office Action in view of claim 1 as amended, for Applicant's invention as presently claimed is deemed novel in light of the prior art cited by the Examiner.

In particular, for Hamdi to anticipate Applicant's independent claim 1, claim 1 as amended now requires:

> [a] method of implementing a plurality of communication channels on a single twisted pair telephone connection, said method comprising the steps of:
>
> interfacing a first communication device with said telephone connection, said first communication device configured to communicate with said telephone connection on a first communication channel, said first communication channel occupying the lowest available frequency band from a plurality of predetermined frequency bands;

> interfacing a second communication device with said telephone connection, said second communication device configured to communicate with said telephone connection on a second communication channel, said second communication channel occupying the lowest available frequency band from said plurality of predetermined frequency bands that is unoccupied by said first communication channel; and
>
> interfacing a third communication device with said telephone connection, said third communication device configured to communicate with said telephone connection on a third communication channel, said third communication channel occupying the lowest available frequency band from said plurality of predetermined frequency bands that is unoccupied by said first communication channel and said second communication channel;
>
> whereby said first, second, and third communication channels occupy separate predetermined frequency bands.

Hamdi, however, does not disclose such a method of consecutively implementing communication channels for communication devices that are being consecutively added and interfaced to a single twisted pair telephone connection, wherein each consecutively added communication device is made to operate over a "communication channel occupying the lowest available frequency band from [a] plurality of predetermined frequency bands." Instead, Hamdi discloses a digital modem system wherein a plurality of communication profiles, including "best-case" and "worst-case" communication profiles, are generated and/or stored in memory to facilitate simultaneous communications over a transmission medium using different frequency bands. (Hamdi, column 4, lines 54-67; column 5, lines 1-5; column 10, lines 57-61; column 12, lines 7-10, 58-67; column 13, lines 1-9, 31-66; Figure 6). When operating in a mode according to a best-case communication profile, the modem system communicates data over the transmission medium at a faster and more optimal data transfer rate (i.e., within a higher frequency band). When operating, on the other hand, in a mode according to a worst-case communication profile, the modem system communicates data at a lower and less optimal data transfer rate (i.e., within a lower frequency band). (Hamdi, column 13, lines 1-9, 40-45; column 14, lines 44-47; column 15, lines 14-37; column 17, lines 31-35; column 18, lines 22-29). Upon being powered

up, the digital modem system undergoes initialization and immediately thereafter attempts to operate in a mode according to a best-case communication profile. If, during the course of operation, signal quality monitor logic within the modem system detects a disturbance (for example, line noise) in the transmission medium that threatens the integrity of communication over the transmission medium, the modem system is then made to operate in a mode according to a worst-case communication profile. When or if the disturbance later goes away, the modem system then resumes operation in a mode according to the best-case communication profile. (Hamdi, column 4, lines 54-67; column 5, lines 1-5; column 12, lines 20-32, 58-67; column 13, lines 1-66; column 14, lines 19-67; column 15, lines 14-40; column 16, lines 4-67; column 17, lines 1-12, 31-35; column 18, lines 22-29, 66-67; column 19, lines 1-17). In this way, the modem system disclosed by Hamdi attempts to maintain the integrity of communications over a transmission medium while at the same time operate at a somewhat optimal data transfer rate.

In sum, therefore, Hamdi discloses a modem system that, upon initialization, attempts to operate at high data transfer rates within high frequency bands. In stark contrast, Applicant discloses and claims a method of consecutively implementing communication channels for communication devices that are being consecutively added and interfaced to a single twisted pair telephone connection, wherein each consecutively added communication device is made to operate over a communication channel occupying the lowest available frequency band from a plurality of predetermined frequency bands. (Applicant, pp. 4, 9-10, and 18; claim 1). In light of such disparity between the Hamdi disclosure and Applicant's claim 1 as amended, Applicant respectfully maintains that the subject matter of claim 1 is not anticipated by Hamdi and is therefore novel.

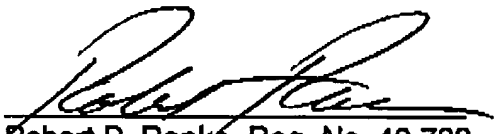
CONCLUSION

In view of the foregoing remarks, Applicant respectfully submits that independent claim 1 is novel with respect to the disclosure of Hamdi. Therefore, Applicant respectfully requests that the Examiner's rejection under 35 U.S.C. § 102(e) be withdrawn and that a Notice of Allowance be issued therefor.

Should the Examiner have any questions with respect to any matter now of record, the Examiner is invited to contact Applicant's undersigned attorney at (248) 223-9500.

Respectfully submitted,

ARTZ & ARTZ, P.C.



Robert P. Renke, Reg. No. 40,783
28333 Telegraph Road, Suite 250
Southfield, MI 48034
(248) 223-9500

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